IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 1409-M of 2007

DATE OF DECISION : 06.03.2007

Nafe Singh

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Davinder Bir Singh, Advocate,
for the petitioner.

Mr. S.S. Mor, Senior DAG, Haryana.

Mr. Ashwani Verma, Advocate,
for the complainant.

* * *

Petitioner Nafe Singh, apprehending his arrest in a non-bailable offence in case FIR No. 682 dated 13.12.2006 under Sections 420/467/468/ 471/218/120-B IPC, registered at Police Station Ratia, District Fatehabad, has filed this petition under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail.

On January 12, 2007, interim anticipatory bail was granted to the petitioner subject to his joining investigation.

I have heard counsel for the parties and have gone through the contents of the FIR as well as the order dated 6.1.2007, passed by Additional Sessions Judge, Fatehabad, whereby bail application of the petitioner has been dismissed.

The petitioner as well as the complainant in the aforesaid FIR are real brothers. The FIR has been registered on the basis of a complaint made by the complainant to the effect that his brother Nafe Singh (petitioner) got an entry for change of khasra girdawari in connivance with

the patwari in the year 1998, according to which the land measuring 67 kanals 8 marlas out of the total land measuring 149 kanals 3 marlas from joint share was recorded in possession of the petitioner, while the land measuring 24 kanals was shown to be in possession of complainant Banwari Lal.

Counsel for the petitioner contends that the aforesaid entry is alleged to have been made after recording consent of the complainant. It is case of the complainant that neither he received any notice nor any consent was given by him and the said fake entry was made by the petitioner in connivance with the patwari, therefore, the alleged offence has been committed. Counsel contends that after 8 years of the aforesaid entry, the instant FIR has been lodged on false facts. He further contends that even otherwise, for the change in the khasra girdawari, the complainant was having alternative remedy under the Punjab Land Revenue Act and even otherwise, making of change in the joint land will not make any difference because all the co-sharers are deemed to be in joint possession of the land.

Counsel for the petitioner further states that in terms of the interim order dated January 12, 2007, the petitioner has joined the investigation. The State counsel does not dispute the aforesaid material facts and the fact of joining the investigation. He further states that the petitioner is no more required for further investigation.

In view of the above, without commenting on the merits, the interim bail, granted vide order dated January 12, 2007, is made absolute subject to the same terms and conditions.

Disposed of accordingly.

March 06, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**